

ENTERED

October 07, 2022

Nathan Ochsner, Clerk

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

EVEREST NATIONAL INSURANCE CO.	§	
	§	
VS	§	CIVIL ACTION NO. H: 20-1265
	§	
MEGASAND ENTERPRISES, INC.	§	

**ORDER ADOPTING MEMORANDUM AND RECOMMENDATION and
AMENDED MEMORANDUM AND RECOMMENDATION**

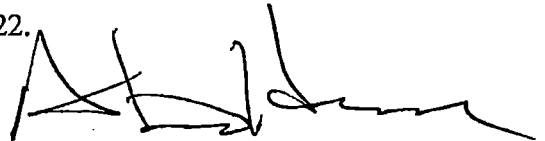
Pending before the Court in the above referenced proceeding is Plaintiff's Motion for Summary Judgment (Doc. No. 21); the parties responses, replies and supplements (Doc. No. 25, 28, 32, 35); Magistrate Judge Sheldon's Memorandum and Recommendation (Doc. No. 37); Plaintiff's objections (Doc. No. 38); Judge Sheldon's Amended Memorandum and Recommendation on Motion for Summary Judgment (Doc. No. 39); and, Defendant's Response to Plaintiff's Motion for Summary Judgment (Doc. No. 40).

The Court has carefully reviewed, *de novo*, the filings, the applicable law, the Magistrate Judge's Memorandum and Recommendation and Amended Memorandum and Recommendation, and the objections thereto, and agrees with the Magistrate Judge's conclusion that the Plaintiff's Motion for Summary Judgment as to any claims that arise under the first three insurance policies is granted and denied as to any claims that arise under the fourth policy. Accordingly, it is hereby

ORDERED that Plaintiff's Objections (Doc. No. 38) are **OVERRULED**; the Memorandum and Recommendation and Amended Memorandum and Recommendation (Doc. Nos. 37, 39) are **ADOPTED**; and Plaintiff's Motion for Summary Judgment (Doc. No. 21) is **GRANTED** as to any claims that arise under the first three insurance policies and **DENIED** as to any claims concerning the duty to defend that arise under the fourth insurance policy. The Court also agrees that any ruling on the duty to indemnify would be premature.

The Court has noted Plaintiff's objections and briefing relating to the limitations on the powers of the Magistrate Judges and reminds the parties that when objections are made to a recommendation, the District Court reviews the issues *de novo*.

SIGNED at Houston, Texas this 7th day of October, 2022.

A handwritten signature in black ink, appearing to read 'Andrew S. Hanen', written over a horizontal line.

Andrew S. Hanen
United States District Judge